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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/731,094	12/06/2000	David Salgado	D/A0598 XER 20373	9375

7590 08/27/2004

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EXAMINER

POON, KING Y

ART UNIT	PAPER NUMBER
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2624

DATE MAILED: 08/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/731,094

Applicant(s)

SALGADO ET AL.

Examiner

King Y. Poon

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-9 and 11 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 recites the limitation "software module" in line 1. There is insufficient antecedent basis for this limitation in the claim.

It is unclear what software module is referring to.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Alderson et al (US 5,019,963).

Regarding claim 1: Alderson teaches a method for automatically updating (column 4, lines 20-60) a printer driver (column 6, lines 57-60) on a computer (PC 12, column 4, lines 55-60) comprising the steps of: (A) contacting a remote network location (host 11, column 4, lines 45-50); (B) comparing (considered as the same or not) a first

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version (version at PC 12, column 4, lines 50-55) of the printer driver installed on the computer with a second version stored at the remote network location (column 4, lines 50-55, column 4, lines 20-30); (C) downloading and installing the printer driver (latest version, column 4, lines 50-60) from the remote location onto the computer if it is a more recent version of the printer driver than one currently installed on the computer; and (D) uninstalling (erases, column 4, lines 55-60) the version of the printer driver previously stored on the computer.

Regarding claim 3: Alderson teaches in which each step is performed at a designated time or upon the occurrence of a designated event (inherently, all computer's program steps are performed at a designated time or upon the occurrence of a designated event) without prompting by the computer user (automatic, column 7, line 10-11).

Regarding claim 4: Alderson teaches in which the second version is stored at a location a system administrator (program supplier, column 3, lines 23-27, since a computer would not have any program stored without being loaded/supplied with the program; therefore, there must exist (inherent) a person that decides what is being stored in the computer) can control which versions of printer drivers are stored there.

Regarding claim 5: Alderson teaches in which the level of user interaction required in the updating process can be varied (the system can be programmed from allowing user to invoke updating to automatically, column 5, lines 15-20, column 7, lines 9-11).

Regarding claim 6: Alderson teaches in which the steps are performed without cessation or interruption (automatically, column 7, lines 9-11, if the computer stops/interrupted from running the program of the computer system, the computer system (inherently) cannot perform program steps without the program) of the computer system or its programs during the execution of the steps.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alderson et al. as applied to claim 1 above, and further in view of Davis et al (US 5,742,829).

Regarding claim 2: Alderson does not teach in which the comparing step includes querying the second version of the driver by reading from the initialization file of the second version to determine its version.

Davis, in the same area of installing software, teaches when determining a newer version of a software, it is well known to perform a comparing step of: querying the second version of the driver by reading from the initialization file of the second version to determine its version (column 13, lines 50-60).

Therefore, it would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Alder to include: a comparing step

includes querying the second version of the driver by reading from the initialization file of the second version to determine its version.

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Alder by the teaching of Davis because of the following reasons: (a) it would have allowed Alder's invention to be implemented in Microsoft environment, column 13, lines 20-30; and (b) using in a Microsoft environment would have allowed Alder's system to have many users because Microsoft is one of the biggest computer software company.

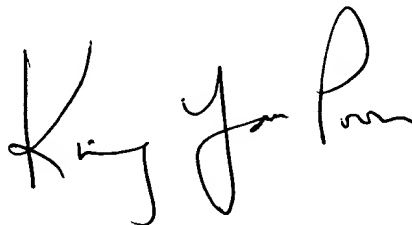
***Allowable Subject Matter***

7. Claims 7, 8, 9, 11 are allowed.

***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to King Y. Poon whose telephone number is (703) 305-0892 or to Supervisor Mr. David Moore whose phone number is (703) 308-7452.

8/19/04

A handwritten signature in black ink, appearing to read "King Y. Poon". The signature is written in a cursive, flowing style with a large initial "K" and a long, sweeping underline.